

AMENDED IN SENATE JUNE 22, 2010

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY MAY 6, 2010

AMENDED IN ASSEMBLY APRIL 26, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2620

Introduced by Assembly Member Eng

February 19, 2010

An act to ~~add Section 149.05 to~~ *amend Section 114.5 of the Streets and Highways Code*, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2620, as amended, Eng. ~~Transportation: toll facilities. Department of Transportation: reimbursement for capital outlay support services.~~

Existing law provides that the Department of Transportation shall have full possession and control of the state highway system and associated property. Existing law provides for ~~the development of high-occupancy toll lanes on the state highway system by regional transportation agencies under specified circumstances and specifies the use of toll revenues generated from these facilities cooperative agreements between the department and public entities for the performance of work by the department and those entities and apportionment of associated expenses.~~

This bill would ~~require up to 15 percent of net toll revenues, as specified, generated by certain toll facilities on the state highway system~~

~~to be dedicated to funding projects in the state highway operation and protection program (SHOPP). The bill would make legislative findings and declarations in that regard. The bill would require those revenues to be used for SHOPP projects in the transportation corridor in which the revenues are generated, but would also authorize the department to apply jointly with the public agency implementing the toll facility to the California Transportation Commission to direct those revenues to other projects on the state highway system within the county in which the toll facility is located and the revenue is generated, including non-SHOPP projects. This bill would not apply to toll facilities authorized in statute on or before January 1, 2010 require the reimbursement of the department when it performs capital outlay support services, as defined, for a public agency or private entity.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 114.5 is added to the Streets and
2 Highways Code, to read:
3 114.5. (a) For purposes of this section, the following terms
4 have the following meanings:
5 (1) “Capital outlay support services” means the performance
6 of project development services, including performance
7 specifications, preliminary engineering, prebid services,
8 preparation of project reports and environmental documents,
9 design services, preparation of plans, specifications, and estimates,
10 construction inspection and management services, surveying,
11 materials testing, and related functions.
12 (2) “Indirect overhead costs” means the pro rata share of
13 existing administrative salaries and benefits, rent, equipment costs,
14 utilities, and materials.
15 (b) When the department performs capital outlay support
16 services for any public agency or a private entity, it shall be
17 reimbursed by the agency or entity for the cost of staff salaries
18 and benefits for staff needed for the function and the cost of
19 additional space, equipment, and materials needed to perform the
20 function. The department shall not be reimbursed for indirect
21 overhead costs unless those costs can be attributed solely to the
22 function and would not exist if the function were not performed

1 *by the department. If the department utilizes a contractor to provide*
2 *part or all of the capital outlay support services, the department*
3 *shall be reimbursed by the agency or entity for the cost of the*
4 *contractor plus costs that are directly associated with the*
5 *contracted function, including, but not limited to, advertising and*
6 *awarding the contract, inspection, supervision, and monitoring of*
7 *the contractor.*

8 ~~SECTION 1. The Legislature finds and declares all of the~~
9 ~~following:~~

10 ~~(a) The level of funding available for maintenance, preservation,~~
11 ~~and rehabilitation of the state highway system is straining the~~
12 ~~ability to meet rehabilitation and preservation needs of the system.~~

13 ~~(b) Rehabilitation and reconstruction needs on the state highway~~
14 ~~system are increasing as the infrastructure ages.~~

15 ~~(c) The continued increase in vehicle travel and goods movement~~
16 ~~contributes to an increased rate of pavement and bridge~~
17 ~~deterioration, new accident concentration locations, and increasing~~
18 ~~hours of traffic congestion.~~

19 ~~(d) Continued underfunding of maintenance, preservation, and~~
20 ~~rehabilitation needs delays projects and increases the cost when~~
21 ~~the work is eventually undertaken.~~

22 ~~(e) Transportation agencies are increasingly interested in~~
23 ~~developing tolled facilities on the state highway system, a~~
24 ~~state-owned asset.~~

25 ~~(f) At least a portion of the proceeds from tolled facilities should~~
26 ~~be directed to maintenance, preservation, and rehabilitation of the~~
27 ~~state highway system, which serves as a backbone to those~~
28 ~~facilities.~~

29 ~~SEC. 2. Section 149.05 is added to the Streets and Highways~~
30 ~~Code, to read:~~

31 ~~149.05. (a) Notwithstanding any other provision of law, up to~~
32 ~~15 percent of net toll revenues generated by a toll facility on the~~
33 ~~state highway system shall be dedicated to funding projects in the~~
34 ~~state highway operation and protection program and as otherwise~~
35 ~~provided in subdivision (c). For the purposes of this section, net~~
36 ~~toll revenue shall include total revenues generated by the facility~~
37 ~~after subtracting direct expenses related to the operation of the~~
38 ~~facility, including collection and enforcement, maintenance, and~~
39 ~~administration. Administrative costs shall not exceed 3 percent of~~

1 total revenues. This section shall not apply to toll facilities
2 authorized in statute on or before January 1, 2010.

3 (b) Toll facilities subject to this section shall be developed in
4 accordance with a cooperative agreement between the department
5 and the public agency that is developing the toll facility. The
6 cooperative agreement shall determine the appropriate percentage
7 of net toll revenues to be dedicated to projects in the state highway
8 operation and protection program pursuant to subdivision (a).
9 Factors to be considered in determining the appropriate percentage
10 shall include debt service and facility administration, operation,
11 and maintenance costs. The cooperative agreement between the
12 department and the other public agency shall provide for the
13 payment of those revenues to the department for deposit in the
14 State Highway Account. Those revenues shall be subject to
15 appropriation by the Legislature for purposes consistent with this
16 section and shall not be subject to borrowing or diversion for any
17 other purpose.

18 (c) Toll revenues described in subdivision (a) that are dedicated
19 to the state highway operation and protection program shall be
20 used for projects in the corridor in which the revenues are
21 generated. The department and the affected public agency jointly
22 may also apply to the commission to direct those revenues to other
23 projects on the state highway system within the county in which
24 the toll facility is located and in which the revenues are generated,
25 including projects in capital programs other than the state highway
26 operation and protection program.